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RSPA-1993-13564-278

MARJORIE MARGOLIES-MEZVINSKY  
13TH DISTRICT PENNSYLVANIA

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**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-3813  
May 27, 1993

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Mr. John A. Cline  
Director of Congressional Affairs  
U.S. Department of Transportation  
Room 10406 (I-10)  
400 Seventh Street, S.W.  
Washington, D.C. 20590

Dear Mr. Cline:

One of my constituents, Curtis F. Moyer, has contacted me for assistance on a problem with which the Department of Labor might be able to help. I have enclosed all the information which we have been given on this particular case for your review.

Curtis and I are anxious to resolve this problem as soon as possible. Because of this, your prompt consideration would be most appreciated. If you have any questions, please contact Judy Braunston.

Sincerely,

Marjorie Margolies-Mezvinsky

MMM:arh

Moyer Packing Company  
PO Box 395  
Souderton, PA 18964-0395  
215 723-5555

Beef Packers/Renderers

May 24, 1993

The Honorable Marjorie Margolies-Mezvinsky  
Main District Office  
1 Presidential Blvd. Suite 200  
Bala Cynwyd, PA 19004

Dear Ms Margolies-Mezvinsky:

This letter is to inform you of my concern with a matter that will have potentially devastating effects on my business in our state. An interim final rule, recently issued by the U. S. Department of Transportation's Research and Special Programs Administration (RSPA), seeks to regulate animal fats and vegetable oils as hazardous materials when transported in tanker trucks and railroad tankers. This rule conveys an erroneous impression to the public that these substances present a threat to health and safety, when in reality there is no such threat inherent in them.

RSPA's rule implements oil spill response plan requirements under the Oil Pollution Act of 1990 (OPA 90). RSPA has chosen to include these oil spill plan requirements with existing DOT regulations covering hazardous material transportation. In order to accomplish this, RSPA amended the list of hazardous materials to include animal fats and vegetable oils as class 9 hazardous materials defined as oil n.o.s. with flash point of not less than 90° Celsius (200° Fahrenheit). In their haste to implement OPA 90, RSPA has included these non-hazardous, non-toxic, readily biodegradable substances, and otherwise safe substances, in a classification that is totally inappropriate.

My company is a member of the National Renderers Association, involved in the rendering and recycling of inedible and edible animal byproducts, such as fat, bones, offal, and restaurant grease. The rendering process yields substances which are used in soaps, cosmetics, animal feeds and edible shortenings for human consumption. The rendering industry services the community by removing substances that would otherwise find their way into already overburdened public landfills, and converts them into products that serve a variety of public uses.

- When it was drafted, the Hazardous Materials Transportation Act was originally concerned with the transportation of highly toxic and potentially dangerous materials over the nation's public highways and rail lines. At that time, animal fats and vegetable oils were never considered for regulation due to the fact that they lacked the requisite physical characteristics to be designated hazardous materials. This fact was conceded by RSPA in 58 Fed. Reg. 6868 (February 2, 1993). RSPA is now attempting to regulate these substances because their regulation provides a convenient way in which to implement the OPA 90 regulations. Administrative convenience is not an acceptable ground for designating substances as "hazardous."

By designating animal fats and vegetable oils as hazardous, RSPA is going contrary to the conventional definition of the term "hazardous." By definition, "hazardous" generally connotes a material to which exposure may result in adverse effects on health or safety due to flammability, combustibility, corrosiveness, or toxicity. Animal fats and vegetable oils exhibit none of those characteristics associated with hazardous substances. In fact, no other federal agency considers animal fats and vegetable oils to be hazardous. They are not hazardous substances under regulations of the EPA pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), nor are they considered to be hazardous wastes under the Resource Conservation and Recovery Act. (RCRA). Because animal fats and vegetable oils are neither physical hazards nor health hazards, they should not be designated as hazardous materials.

It is important to note that unlike petroleum and chemical oils, animal fats and vegetable oils do not behave in the same manner. In addition to the high biodegradability of animal fats **and** vegetable oils by microorganisms (something ~~that~~ petroleum oils **do** not possess), animal fats will revert to a solid state at ambient temperature and pressure. Thus, in the event of a spill into a waterway, the clean-up of an animal fat ~~spill~~ will be much easier, as the material will not spread out along the surface, (unlike petroleum oils).

What is most disturbing about RSPA's regulation, is ~~that~~ their definition of animal fats and vegetable oils as hazardous materials blurs the criteria for identifying potentially dangerous substances. This has the potential to confuse transportation personnel, emergency responders and regulators in general, causing them to believe that actual risk existed in the event of a discharge, when in fact no threat to the environment or the public health and safety existed.

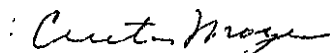
RSPA should reconsider their position on designating animal fats and vegetable oils as hazardous materials. It is reasonable that RSPA would want transporters to have spill response plans for materials that could suddenly discharge unexpectedly and accidentally from their tanks' containers. RSPA should attempt to correct this problem by creating separate spill response plans for railcars and tank trucks transporting animal fats and vegetable oils, without designating them as hazardous materials.

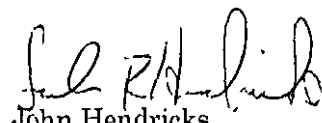
Please note that the time period for comments has been **extended** to June 3, 1993. I strongly urge you to contact RSPA immediately, and inform them of the unreasonableness inherent in their regulation. I would be happy to work with you and your staff **to** develop acceptable regulations ~~that~~ would require spill response plans **for** animal fats and vegetable oils without classifying them as **hazardous** materials.

Thank you for your prompt attention to this matter.

Sincerely,

MOYER PACKING COMPANY

  
Curtis F. Moyer  
President

  
John Hendricks  
Vice President - Rendering Division

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